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STATE OF MICHIGAN
DEPARTMENT OF COMMUNITY HEALTH
LANSING

JAMES K. HAVEMAN
DIRECTOR

DATE: October 11, 2012

TO: Local Health Departments
Health Care Providers
Other Interested Parties

FROM: James K. Haveman, Director

SUBJECT: Disclosure of Protected Health Information for Disease Prevention and Control
under the Michigan Public Health Code and the Federal HIPAA Privacy Rule

Reportable Diseases

The Michigan Department of Community Health (MDCH) and local health departments (LHDs) are responsible for safeguarding the public health, including the prevention and control of diseases. MCL 333.2221; 333.2433; 333.5101 *et seq.*; R325.171 *et seq.* In order to prevent and control the spread of communicable diseases, the Public Health Code and the administrative rules require physicians and clinical labs to report within 24 hours of discovery, cases of all reportable diseases and occurrences of any condition that may threaten the public health, to the appropriate local health department. MCL 333.5111; R 325,173. In addition to the mandatory reporting requirements for physicians and laboratories, all of the following individuals are specifically authorized to report conditions that may pose a threat to the public health to the appropriate local health department: administrators, epidemiologists, infection control professionals from health care facilities or other institutions, dentists, nurses, pharmacists, physician's assistants, veterinarians, and any other health care professional. R 325.173 (8).

Effective July 13, 2010, the Public Health Code was amended to require MDCH to review and revise the list of reportable diseases at least annually¹ MCL 333.5111(1). Now, the current list of reportable diseases may be revised at any time, and a new list will be published every January.

¹ MCL 333.5111 was amended in 2010 to allow MDCH to modify the list of reportable diseases at any time without the requirement to seek an administrative rule change, and to require MDCH to review and revise the list of reportable diseases on at least an annual basis. Administrative rule 325.172, which designates and classifies reportable diseases, has not yet been modified to reflect the recent changes to MCL 333.5101. Therefore, rule 325.172 no longer provides the most current list of reportable diseases. The current list of reportable diseases is available on the MDCH website www.michigan.gov/cdinfo.

Investigation of a reported condition

The Public Health Code authorizes MDCH and LHDs to inspect and investigate any matter, thing, premises, place, person, record, vehicle, incident, or event to assure compliance with laws they enforce. MCL 333.2241-2247; 333.2446. The Public Health Code authorizes MDCH to promulgate rules to investigate cases, epidemics, and unusual occurrences of diseases and infections, and the administrative rules authorize MDCH and LHDs to investigate a suspected outbreak or exposure. MCL 333.5111(2) (b); R 325.174. Specifically, MDCH and LHDs are authorized to obtain individual medical and epidemiological information pertaining to the following:

- (a) Individuals who have designated conditions or other conditions of public health significance.
- (b) Individuals, whether ill or well, who are part of a group in which an unusual occurrence, outbreak, or epidemic has occurred.
- (c) Individuals who are not known to have a designated condition but whose medical or epidemiological information is needed for investigation into the cause of the occurrence of the condition.
- (d) Individuals who were potentially exposed to a designated condition.
- (e) Individuals who have a declared critical health problem pursuant to the provisions of Act No. 312 of the Public Acts of 1978, being §325.71 et seq. of the Michigan Compiled Laws.

R. 325.174(2).²

Confidentiality of information

Public Health Code

The Public Health Code requires MDCH to promulgate rules to provide for the confidentiality of reports and related information. MCL 333.5111(3). Administrative rule 325.181 provides for the confidentiality of medical and epidemiological information, gathered in the course of an investigation, if it identifies an individual. Information that identifies an individual is not open to public inspection without the individual's consent,

² MDCH and LHDs are also authorized to obtain specimens in the course of an investigation of a reported disease. R 325.174(4).

unless necessary to protect the public health, as determined by the local health officer or the Director of MDCH. R 325.181.

HIPAA

The Standards for Privacy of Individually Identifiable Health Information (Privacy Rule), establish a set of national standards for the protection of certain health information. The Privacy Rule was issued in December 2000 by the U.S. Department of Health and Human Services to implement the requirement of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to address the use and disclosure of protected health information, which is individually identifiable health information that is held or transmitted in any form by a covered entity.³ The purpose of the Privacy Rule is to adequately protect health information without impeding the flow of information needed to provide quality care and protect the public health.

Questions have been raised about the impact of HIPAA on individually identifiable health information that is to be provided to LHDs by covered entities for disease prevention and control purposes. **The Privacy Rule allows a covered entity to disclose an individual's protected health information to a public health authority without the authorization of the individual.** 45 CFR §164.512(b). A public health authority includes an agency of a state, or a subdivision of a state, that is responsible for public health matters as part of its official mandate, or a person or entity acting under a grant of authority, or as an agent, contractor, or an employee of a public health agency. 45 CFR §164.501. Both MDCH and the LHDs are public health authorities, responsible under the Public Health Code for public health matters, including disease surveillance, prevention, and control. This means that the Privacy Rule does not prevent covered entities (including hospitals, physicians, clinical laboratories, and other health care providers) from providing individually identifiable health information to MDCH and to LHDs for disease prevention and control activities. It is vitally important that all health care providers work cooperatively to promptly report designated or unusual occurrences of diseases, infections, or conditions, and to facilitate access to health information during investigations. It is only with the vigilance and assistance of health care providers that we can succeed in our endeavors to safeguard the health of our citizens and prevent the spread of disease.

³ *Individually identifiable health information* is "information that is a subset of health information, including demographic information . . ." that identifies the individual, or where a reasonable basis exists to believe the information can be used to identify the individual. *Covered entity* is defined as a health plan, a health care clearinghouse, or a health care provider who transmits health information in electronic form. 45CFR §160.103.

The current list of reportable diseases is available on the MDCH website

www.michigan.gov/cdinfo. For further information about disease surveillance, prevention, and control, please contact the MDCH Communicable Disease Division at 517-335-8165

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